

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORR WATER DITCH CO., *et al.*,

Defendants.

In Re: Nevada State Engineer Ruling
No. 5747

Case No. 3:73-cv-00018

ORDER

Respondent Grand Slam Enterprises, LLC, moved pursuant to Fed. R. Civ. Pro. 12 for the dismissal (#12) of the Pyramid Lake Paiute Tribe's Petition for Judicial Review of Nevada State Engineer Ruling #5747. The Tribe opposed the motion (#18).

Grand Slam argues that the Tribe neither protested nor made an appearance in Grand Slam's Application No. 66729, one of many applications decided by the State Engineer in Ruling #5747. The Tribe concedes that it neither appeared nor protested Grand Slam's Application. The Tribe argues, however, that it is *aggrieved* by the State Engineer's ruling, and thus has standing to appeal. See Nev. Rev. Stat. §533.450(1) ("any

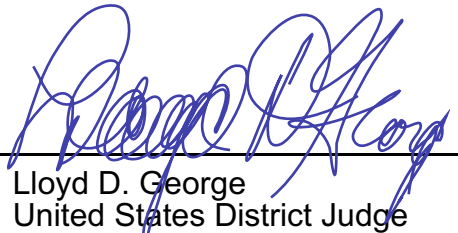
1 person feeling himself aggrieved by any order or decision of the State Engineer . . .
2 affecting his interest . . . may have the same reviewed by a proceeding for that purpose.”

3 The Tribe’s failure to appear, protest, object, or otherwise participate in Grand
4 Slam’s Application precludes them from now asserting, to this reviewing court, that they are
5 aggrieved by the decision of the State Engineer. The Court considers the Tribe’s failure to
6 appear, protest, object, or otherwise participate in the Application as constituting the Tribe’s
7 consent to the State Engineer’s decision regarding that Application and will not entertain
8 any arguments to the contrary.

9 Accordingly, for good cause shown,

10 THE COURT **ORDERS** that Grand Slam Enterprises, LLC’s Motion to Dismiss (#12)
11 is GRANTED as follows: The Pyramid Lake Paiute Tribe’s Petition for Judicial Review of
12 Ruling #5747 is DISMISSED to the extent it seeks review of the State Engineer’s Ruling
13 regarding Grand Slam Enterprises, LLC’s Application No. 66729.

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15 DATED this 27 day of August, 2010.

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18 Lloyd D. George
United States District Judge
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